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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,139	02/26/2002	Nobuyoshi Kishida	1232-4826	4157

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EXAMINER

SANDERS JR, JOHN R

ART UNIT

PAPER NUMBER

3737

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	10/086,139	KISHIDA ET AL.	
	Examiner John R. Sanders	Art Unit 3737	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<b>Period for Reply</b>			
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>			
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b>			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>26 February 2002</u> . 2a) <input type="checkbox"/> This action is FINAL.                    2b) <input checked="" type="checkbox"/> This action is non-final. 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
<b>Disposition of Claims</b>			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-18</u> is/are pending in the application. 4a) Of the above claim(s) _____ is/are withdrawn from consideration. 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. 6) <input checked="" type="checkbox"/> Claim(s) <u>1-18</u> is/are rejected. 7) <input type="checkbox"/> Claim(s) _____ is/are objected to. 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
<b>Application Papers</b>			
9) <input type="checkbox"/> The specification is objected to by the Examiner. 10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>26 February 2002</u> is/are: a) <input checked="" type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
<b>Priority under 35 U.S.C. §§ 119 and 120</b>			
13) <input checked="" type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input checked="" type="checkbox"/> All    b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input checked="" type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____ . 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received. 15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
<b>Attachment(s)</b>			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ . 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____ .	

**DETAILED ACTION**

***Inventorship***

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 2 recites the limitation "the laser beam illumination state" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 7, 8 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,844,658 to *Kishida et al.*

7. Regarding claims 1, 2, and 7, *Kishida* discloses an eye fundus blood flow meter with image pickup, display and laser measurement means. *Kishida* discloses a tracking control means for changing a measurement state (col. 3: 5-14). Also, the display state is changed in accordance with the measurement state during image rotation (col. 6: 7-32). Furthermore, it is common in the art to also change the display state in accordance with the measurement state to provide feedback to the user. A visual denotation of the current state is common in measurement instruments.

8. Regarding claims 8 and 16, *Kishida* discloses changing the display state based on the position of the beam. See col. 6, lines 7-47.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kishida et al.*

11. Regarding claim 5, it is common in the art to have a signal input means. It would have been obvious to one of ordinary skill in the art to include a signal input means so that the user can, for example, operate the apparatus by signaling the start/end of a measurement routine.

12. Regarding claim 6, *Kishida* discloses displaying calculation results on a separate display unit (col. 4: 25-54), but one of ordinary skill in the art would find it obvious to combine the fundus image and data onto one display device in order to minimize space and/or cost.

13. Regarding claims 17 and 18, *Kishida* discloses changing the display state based on the position of the beam as discussed above.

14. Claims 3, 4 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kishida et al.* in view of U.S. Patent No. 4,952,050 to *Aizu et al.*

15. Regarding claims 3, 4, 12 and 13, *Kishida* discloses a CCD sensor that picks up an image enlarged more than the image on the television camera (col. 6: 41-47). *Aizu* teaches that magnification of the eye fundus is desirable for proper laser beam placement in a blood flow meter (col. 17: 38 - col. 18: 9). It would have been obvious to one of ordinary skill in the art to zoom the image of the fundus during blood flow measurement in order to facilitate precise placement of the laser. It would further be obvious to zoom the image only when the beam position is determinable, thereby not limiting the scope of the display when determining the beam position.

16. Regarding claim 9, *Kishida* discloses the above limitations, but does not expressly disclose an illumination means in addition to the laser measurement means. *Aizu* teaches an observation light source apart from the measurement laser (FIG. 1), and it is also common trade practice to do so. It would have been obvious to one of ordinary skill in the art to include an observation light source for general illumination.

17. Regarding claims 10 and 11, it would have been obvious to one of ordinary skill in the art to always ensure that, in a blood flow meter with a display device, the display is centered around the area of interest, i.e., the measurement laser beam.

18. Regarding claim 14, one of ordinary skill in the art would find it obvious to combine the fundus image and data onto one display device, as discussed above.

19. Regarding claim 15, it is common in the art to have a signal input means and would have been obvious to one of ordinary skill in the art to include, as discussed above.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as pertaining to eye fundus blood flow determination apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Sanders whose telephone number is (703) 305-4974. The examiner can normally be reached on M-F 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis W. Ruhl can be reached on (703) 308-2262. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



jrs



DENNIS RUHL  
PRIMARY EXAMINER